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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,071	09/24/2003	Kenneth Myers	4W01.1-080	5113
35725 7590 04/09/2008 MEHRMAN LAW OFFICE, P.C. ONE PREMIER PLAZA 5605 GLENRIDGE DRIVE, STE. 795 ATLANTA, GA 30342				
EXAMINER WILLIAMS, ARUN C				
ART UNIT		PAPER NUMBER		
2838				
MAIL DATE		DELIVERY MODE		
04/09/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/670,071

Applicant(s)

MYERS ET AL.

Examiner

ARUN WILLIAMS

Art Unit

2838

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. **Claims 1,3-7,9-11,13, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable by Morita et al, (Morita), USPAT 5,652,499 in view of Luo, USPAT6,376,764**

As for claims 1,5,9, and 13, Morita discloses and shows in Fig. 1 a battery powered device configured to receive auxiliary electric power applied between a first terminal and a second terminal; comprising: the first terminal(also pin)(8), wherein it is a male contact that receives a female contact (plug of 9), positioned adjacent to a cavity sized (2A) to receive a battery; the first terminal configured to electrically contact an electrode (probes on the 2A) of the battery when the battery is located within the cavity; the first terminal also configured to electrically contact a first lead of an auxiliary power cord plug when a housing of the plug is located within the cavity, thus is implicit by the circuitry configuration of the prior art; the second (this lies within 8)terminal configured to electrically contact a second lead of the plug when the housing of the plug is located within the cavity (col.5, lines 37-55). Still lacking the limitation such as physically engage and form an electrical connection with a power terminal of the battery and a first lead of an auxiliary power cord plug. Luo discloses and shows in Fig. 4-5 a physically engage and form an electrical connection with a power terminal of the battery and a first lead of an auxiliary power cord plug. (col.10, lines 25-43)

Luo is evidence that ordinary skill in the art would find a reason, suggestion or motivation to have a physically engage and form an electrical connection with a power terminal of the battery and a first lead of an auxiliary power cord plug.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Morita by having a physically engage and form an electrical connection with a power terminal of the battery and a first lead of an auxiliary power cord plug for advantages such as providing a substitute for electrical power source (col.2, lines 43-46), as taught by Luo.

As for claims 3,4,6,7,10,11,15, and 16, Morita shows in Fig. 13, a battery stop (132A) located adjacent to the first terminal and configured to prevent the battery from damaging the first terminal through over-insertion of the battery into the cavity, wherein battery stop comprises a brow (substantial notch on 132A) on a wall adjacent to the first terminal (col.9-10, lines 61-12)

5. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang, USPAT 6,563,713 in view of Larsson, USPAT 4,964,851 and further in view of Luo, USPAT6,376,764

As for claims 1,5,9, and 13, Yang discloses and shows in Fig. 7 a battery powered device configured to receive auxiliary electric power applied between a first terminal and a second terminal; comprising: the first terminal(also pin) (terminal in 11) positioned adjacent to a cavity (11) sized to receive a battery; the first terminal configured to electrically contact an electrode (721) of the battery when the battery is located within the cavity; the first terminal also configured to electrically contact a first lead of an auxiliary power cord plug when a housing(3) of the plug is located within the cavity; the second terminal(5) configured to electrically contact a second lead of the plug (plug from A or B) when the housing of the plug is located within the cavity (col.2,

lines 23-49). Still lacking the limitation such as physically engage and form an electrical connection with a power terminal of the battery and a first lead of an auxiliary power cord plug. Luo discloses and shows in Fig. 4-5 a physically engage and form an electrical connection with a power terminal of the battery and a first lead of an auxiliary power cord plug. (col.10, lines 25-43)

Luo is evidence that ordinary skill in the art would find a reason, suggestion or motivation to have a physically engage and form an electrical connection with a power terminal of the battery and a first lead of an auxiliary power cord plug.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Yang by having a physically engage and form an electrical connection with a power terminal of the battery and a first lead of an auxiliary power cord plug for advantages such as providing a substitute for electrical power source (col.2, lines 43-46), as taught by Luo.

As for claims 3,4,6,7,10,11,15, and 16 Yang discloses and shows in Fig. 7 a battery stop (notch in 11) located adjacent to the first terminal and configured to prevent the battery from damaging the first terminal through over-insertion of the battery into the cavity and the battery stop comprises a brow (surrounding structure in 11) on a wall adjacent to the first terminal.

As for claims 2,8,12, and 14, Yang and Luo differs from the claimed invention because he does not explicitly disclose a breast pump. Larsson discloses and shows in Fig. 1 a battery power device being a breast pump (col.2, lines 11-44). Larsson is

evidence that ordinary skill in the art would find a reason, suggestion or motivation to use a breast pump.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Yang modified by Luo by using breast pump for advantages such as achieving good pressure regulation (col.1, lines 35-36), as taught by Larsson

6. Claims 2,8,12, and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Morita in view of Luo and further in view of Larsson, USPAT 4,964,851.

As for claims 2,8,12, and 14, Morita and Luo differs from the claimed invention because he does not explicitly disclose a breast pump. Larsson discloses and shows in Fig. 1 a battery power device being a breast pump (col.2, lines 11-44). Larsson is evidence that ordinary skill in the art would find a reason, suggestion or motivation to use a breast pump.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Morita modified by Luo by using breast pump for advantages such as achieving good pressure regulation (col.1, lines 35-36), as taught by Larsson.

Response to Arguments

Applicant's arguments filed 1/29/2008 have been fully considered but are now moot in view of the new grounds of rejection necessitated by amendment.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARUN WILLIAMS whose telephone number is (571)272-9765. The examiner can normally be reached on Mon - Wed and Fri 6:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Akm Ullah can be reached on 571-272-23612361. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2838

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Arun Williams
Examiner
Art Unit 2838

/A. W./
Examiner, Art Unit 2838

/Bao Q. Vu/
Primary Examiner, Art Unit 2838
April 6, 2008